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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

15 Cr. 174 (LGS)

FABIO PORFIRIO LOBO,

Defendant.

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September 5, 2017  
4:50 p.m.

Before:

HON. LORNA G. SCHOFIELD

District Judge

APPEARANCES

JOON H. KIM  
Acting United States Attorney for the  
Southern District of New York  
BY: MATTHEW J. LAROCHE  
EMIL J. BOVE III  
Assistant United States Attorneys

RETURETA & WASSEM, PLLC  
Attorneys for Defendant  
BY: MANUEL RETURETA

Also present: Spanish language interpreters:  
Francisco Olivero  
Dagoberto Orrantia

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(Case called)

THE DEPUTY CLERK: Counsel, please state your name for the record.

MR. BOVE: Good afternoon, your Honor. Emil Bove and Matt Laroche for the government.

THE COURT: Good afternoon.

MR. RETURETA: Good afternoon, your Honor. Matt Retureta, on behalf of Mr. Porfirio Lobo, who is present.

THE COURT: Good afternoon.

Good afternoon, Mr. Lobo.

I see that we are assisted by Spanish interpreters. So I would just ask, Mr. Lobo, as I usually do, if there is anything that you can't hear or understand in the translation, please let me know and I will have it corrected. OK?

THE DEFENDANT: OK.

THE COURT: I would also ask the translators, if there is anything that you can't hear or understand from the defendant, please let me know and we will try and remedy it.

THE INTERPRETER: Yes, your Honor.

THE COURT: We are here today to impose sentence in the case of United States v. Fabio Porfirio Lobo. Mr. Lobo pleaded guilty to conspiracy to import cocaine to the United States and to manufacture and distribute cocaine, pursuant to what is called a Pimentel letter, dated April 4, 2016.

In preparation for today's proceeding, I have relied

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1 on the updated presentence report, which was dated July 17,  
2 2017. I also conducted a so-called Fatico hearing on March 6  
3 and 16, reviewed related submissions from the government and  
4 defense, and after the hearing ruled on the requested  
5 sentencing guidelines enhancements.

6 I also have reviewed the defendant's submissions,  
7 which were filed on May 15, 19, June 7 and July 19, 2017, and  
8 included letters from Mr. Lobo's wife, Cynthia Cardona Lobo,  
9 and also Ora Lobo, his daughter.

10 I also have the following documents, and because they  
11 are numerous I won't enumerate each one, but I will describe  
12 them, and I also have translations that were provided by Mr.  
13 Retureta. I have diplomas reflecting the defendant's  
14 educational degrees and work history. I also have documents  
15 regarding his wife's salary. I have documents regarding his  
16 indebtedness.

17 Also, there was one document that wasn't translated.  
18 I just had one of the court translators translate it for me,  
19 and it was a certificate attesting that Mr. Lobo holds the  
20 power of attorney for a particular bank.

21 I also have the government's submissions, dated May  
22 19, June 8, and July 10.

23 I have reviewed everything that I have just  
24 enumerated. Is there anything else that I should have received  
25 and reviewed?

MR. BOVE: Not from our perspective.

MR. RETURETA: Not from the defense.

THE COURT: Mr. Retureta, have you reviewed the presentence report and discussed it with your client?

MR. RETURETA: We have, your Honor.

THE COURT: Mr. Lobo, have you reviewed and had translated for you the presentence report?

THE DEFENDANT: Yes, your Honor.

THE COURT: Have you discussed it with Mr. Retureta?

THE DEFENDANT: Yes, your Honor.

THE COURT: Have you had the opportunity to go over with him any errors in the report or anything that needs to be taken up with the Court?

THE DEFENDANT: Yes, your Honor.

THE COURT: Let me ask the government, Mr. Bove, have you reviewed the presentence report?

MR. BOVE: Yes, Judge.

THE COURT: Putting aside the calculation of the sentencing guidelines, are there any objections to the report regarding its factual accuracy?

MR. BOVE: No, your Honor.

THE COURT: Mr. Retureta, any objections apart from the sentencing guidelines?

MR. RETURETA: No, your Honor.

THE COURT: I direct that a complete and corrected

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1 copy of the report be prepared for the Bureau of Prisons and  
2 the sentencing commission. The report will be made a part of  
3 the record in this matter and placed under seal. If an appeal  
4 is taken, counsel on appeal may have access to the report  
5 without further application to the court.

6 Now, turning to the sentencing guidelines, although  
7 Mr. Lobo, as you know, the court is no longer required to  
8 accept the recommendation of the sentencing guidelines, we are  
9 required to consider it, and in order to do that, the Court has  
10 to calculate it accurately.

11 So I have consulted the 2016 edition of the sentencing  
12 guidelines manual, and as I described in greater detail in my  
13 written opinion following the Fatico hearing, I find that the  
14 total offense level is 42. And that is based on a base offense  
15 level of 38, plus the following, as I previously outlined:  
16 Three points in addition for being a manager or supervisor  
17 under guideline 3B1.1(b), two points in addition for direct  
18 involvement in importation under guideline 2D1.1(b)(15)(C), and  
19 two points in addition for firearm possession under  
20 2D1.1(b)(1). Then subtracted from that total, I have taken off  
21 a total of three points for acceptance of responsibility under  
22 Section 3E1.1(a). I also find that the criminal history  
23 category is I. The updated presentence report reflects my  
24 rulings on these guideline enhancements and agrees with my  
25 calculation of the sentencing guidelines.

1 Is there any objection to my calculation of the  
2 sentencing guidelines given my rulings?

3 MR. BOVE: No, your Honor. Thank you.

4 MR. RETURETA: No, your Honor.

5 THE COURT: Based on that, I find that the total  
6 offense level is 42, the criminal history category is I.

7 So what all that means, Mr. Lobo, is that the  
8 recommendation under the guidelines is a term of imprisonment  
9 for 360 months, which is 30 years, at the low end, to a maximum  
10 of life. The guidelines also recommend a fine of 25,000 to \$10  
11 million, supervised release of five years, with no possibility  
12 of probation.

13 Under the statute, which is different from the  
14 guidelines recommendation, I am required to sentence you to at  
15 least ten years, up to a maximum of life. The fine under the  
16 statute is a maximum of \$10 million, supervised release is a  
17 mandatory minimum of five years and a maximum of life, with no  
18 eligibility for probation. There is also a mandatory special  
19 assessment of \$100.

20 What is the government's position on restitution?

21 MR. BOVE: We are not seeking restitution.

22 THE COURT: I have issued a separate preliminary order  
23 of forfeiture in the amount of \$266,667. Do I need to do a  
24 final order of forfeiture or will the preliminary order  
25 suffice?

1 MR. BOVE: We believe the preliminary order will  
2 suffice following today's proceedings.

3 THE COURT: Thank you.

4 Are there any objections to the sentencing options I  
5 have outlined?

6 MR. BOVE: No, Judge.

7 MR. RETURETA: No, your Honor.

8 THE COURT: So my question is a technical one, and  
9 that is, does any counsel believe that an upward or downward  
10 departure, as that term is defined in the sentencing  
11 guidelines, is warranted? And that's different from a  
12 variance.

13 MR. BOVE: We are not seeking any departures, your  
14 Honor.

15 MR. RETURETA: Nor is the defense.

16 THE COURT: While I have authority to depart, I  
17 decline to do so, but as I said, that leaves apart the  
18 possibility of a variance. I know that defense counsel will  
19 want to be heard on that, but let me hear from the government  
20 first.

21 Mr. Bove, would you like to be heard with respect to  
22 sentencing?

23 MR. BOVE: Yes, Judge. Thank you.

24 We think based on the evidence that was presented at  
25 the Fatico hearing in this case a guideline sentence is

1 appropriate. I would like to focus on three features today or  
2 three considerations that support that outcome: Drug quantity,  
3 other aggravating characteristics of the offense, and the  
4 importance of general deterrence.

5 The drug quantity here is staggering. The defendant,  
6 as you have already found, is to be held responsible for about  
7 4.4 tons of cocaine. That's almost ten times the maximum  
8 threshold contemplated by the sentencing guidelines. I think  
9 in a case like this, where we are talking about such enormous  
10 quantities of drugs, it's easy to lose sight of the fact that  
11 just one of those kilograms, one of the 4,400 kilos that we are  
12 talking about, contains about one thousand personal use  
13 quantities of cocaine that were intended to be sent into this  
14 country and to impact the people here in all the ways that  
15 these dangerous drugs do.

16 But as striking as the 4.4 tons are, quantity is not  
17 the most extraordinary feature of this case. We have  
18 established that the defendant was involved in nothing short  
19 than state-sponsored drug trafficking. We have established  
20 that his co-conspirators involved his father, the sitting  
21 president of Honduras, as well as sitting Honduran congressmen,  
22 including Oscar Najera. Somewhat remarkable, the defendant  
23 concedes that there was an entirely separate drug trafficking  
24 venture involving a different Honduran congressman, Oscar  
25 Najera.



1           And the defendant didn't just provide assurances or  
2 safe passage for drug loads. There was evidence, your Honor,  
3 that there were times where the Cachiros reached out to him to  
4 give him advance notice of a drug load so that he can be on  
5 call in case something happened. But we also established that  
6 on two occasions, he was actually an eager participant in  
7 direct transportation of, again, huge quantities of drugs. His  
8 eagerness reflects that there was really no end in sight, short  
9 of arrest, for his drug trafficking activities and his goals,  
10 and for that reason, Judge, specific deterrence is a critical  
11 feature of the sentencing.

12           But as I said in the beginning, so is general  
13 deterrence. This is a case that illustrates why arresting drug  
14 traffickers like the Cachiros simply won't suffice to stem the  
15 tide of cocaine into this country. Drug traffickers will be  
16 replaced and the Cachiros probably already have them. What  
17 must be attacked and targeted in cases like this is the type of  
18 political and structural support provided to drug traffickers  
19 in South and Central America, support that allows them to  
20 flourish at the levels that the Cachiros did. That is the type  
21 of problem that this case has highlighted. And political  
22 elites in these regions, they must understand that if they  
23 support drug trafficking activities like this, if they allow  
24 these things to happen in their countries, they will face  
25 severe consequences when they get here. And no matter what

1 happens today, today's sentence will send an important message  
2 in that regard.

3           So for all of these reasons, Judge -- the enormous  
4 quantity of drugs that we are talking about, the other  
5 aggravating considerations that we have discussed, and the need  
6 for general deterrence of this specific type of conduct,  
7 political elites in South and Central America facilitating the  
8 transportation and distribution of massive quantities of  
9 cocaine -- a guideline sentence is appropriate.

10           THE COURT: Thank you.

11           Mr. Retureta, would you like to be heard?

12           MR. RETURETA: Yes, your Honor. Thank you.

13           Listening to the prosecutor describe the level of  
14 activity to which he would like to place on Mr. Lobo astounds  
15 me. The prosecutor has other cases before him, including  
16 defendants before your Honor that are police officers. Those  
17 police officers, as we look at Section 3553(a)(6) and the Court  
18 tries to determine whether there are disparate sentences that  
19 may be issued on similarly situated defendants, those police  
20 officers, as I have received my ECF notices, have made  
21 agreements with the government for plea agreements that place  
22 those defendants at five to 40 years. Yet the superseding  
23 indictment that brought those defendants to this court, that  
24 carried the name of Mr. Lobo, described activity on the part of  
25 those officers, members of the government, using their position

1 for the benefit of drug trafficking organizations, and not just  
2 the Cachiros organization, that activity was described as  
3 stretching back to 2004.

4 The frustration that I feel with this case is that I  
5 believe simply that the prosecution is not happy with the fact  
6 that Mr. Lobo cannot tell them what they wanted him to tell.

7 Mr. Lobo pled guilty in this case. Mr. Lobo, having  
8 been presented with the Pimentel letter, which described in  
9 detail everything that could fall on him, the potential time  
10 that he could face, he ordered his attorney to go ahead and  
11 plead guilty, when there was no offer for a plea, when there  
12 was no ability for me to say, Mr. Lobo, guess what, we worked  
13 out a deal where it's only five to 40.

14 It is astounding because while those numbers are  
15 thrown, and will be discussed not only here but outside this  
16 court, and necessarily in the country of Honduras, it is  
17 astounding because this Court was able to bring to the  
18 attention of both the government and the defense a case by the  
19 name of *Honeycutt*. And the case of *Honeycutt* was interesting  
20 because the Supreme Court ruled, as we all know, that  
21 forfeiture would not be stretched to co-conspirator liability,  
22 the *Pinkerton* concept of liability. So forfeiture would not  
23 mean that if Mr. Lobo was associated with the Cachiros drug  
24 trafficking organization, he would be responsible for  
25 everything, for the purposes of forfeiture, recognizing that.

1 But for the purposes of forfeiture, that case, what happened in  
2 that litigation is a perfect example of what is happening in  
3 this case. The prosecution in this case wants Mr. Lobo to be  
4 the 13 million dollar man. And your Honor will recall that the  
5 prosecution sought \$13.11 million worth of forfeiture from this  
6 individual. *Honeycutt* came out. We both reviewed it. We both  
7 concluded that that number was wrong. The prosecution came up  
8 with a number. We came up with a lower number. \$266,667.

9 I raise that not because \$13 million turned into \$10  
10 million, or maybe \$7 million. I raise it because, even though  
11 we are talking about forfeiture, it is the perfect example of  
12 what this man is and how this man was used by the government's  
13 witness, Mr. Rivera Maradiaga, and his drug trafficking  
14 organization. Because if we are to go down the path that the  
15 government wishes us to go down, in terms of his drug  
16 trafficking acumen, his ability to parlay these deals, to  
17 gather people from different parts of the government and put  
18 them together and make a load go north, then we necessarily  
19 have to figure out, where did his money go, where was his  
20 mansion, where was his luxury car? *Honeycutt* does one simple  
21 thing. It reveals the falsehood of what the government is  
22 trying to establish with this case. He did not get money. He  
23 was used, tossed aside. He was a fool's errand for one of the  
24 largest drug trafficking organizations in Honduras. And he did  
25 not participate at the level that the government wishes that he

1 did.

2 He pled guilty knowing that that is what was coming at  
3 him. We told him, we advised him, they are going to ask for  
4 these enhancements. They are going to say you had a gun  
5 because your bodyguards had a gun. But it wasn't the gun, it  
6 was his face. They are going to tell you that somehow you are  
7 a leader because you had people around you. But it wasn't his  
8 people, it was a security detail that everyone in the Lobo  
9 family had to have because the father was the president at that  
10 time.

11 We rely upon testimony from a government witness  
12 where, we submit, we have already established committed perjury  
13 on that stand. And we submit that in the future the problems  
14 will continue to come. We respect the Court's decision  
15 regarding the request we made in July for Brady, but we stand  
16 by our request for that information. There is undoubtedly  
17 information in the possession of the government which deals  
18 with the credibility of the primary witness -- not the primary,  
19 the only witness that the government has used to enhance this  
20 man's sentence.

21 Obviously, we feel the guidelines are overrepresented,  
22 are out of line for an appropriate sentence in this case. Mr.  
23 Lobo, given what he did, given the limits of what was  
24 happening -- because let's remember, the limits of what  
25 happened was activity and then efforts by the Cachiros,

1 together with US law enforcement, to bring him into other  
2 activity -- warrants something well below 30 years. Large  
3 scale drug trafficking kingpins that have controlled regions in  
4 Colombia, Guatemala, Honduras and Mexico have received 25, 30  
5 and 40 years, for going to trial, making the government expose  
6 their evidence completely, and having been found guilty.

7 It's not a just sentence for this man. This man took  
8 an action that was extraordinary. He could have told this  
9 attorney take him to trial, make them put everything out there,  
10 I don't care. His direction was, I am accepting responsibility  
11 for what I did. We don't agree on what happened, but he  
12 accepted responsibility knowing the consequences.

13 Your Honor, I raise that and emphasize that because I  
14 think it is key to the Court's decision. He will return to  
15 Honduras. His wife is in the second row, second from the left.  
16 The three-year-old, maybe in her teens or in her 20s; the  
17 18-year-old in her 20s or 30s; the 13-year-old, 20s or 30s.  
18 Life will go on. That woman will bear the burden of everything  
19 that happens from this day forward, and he knows it.

20 I can tell the Court, because I have been with him  
21 from day one, that there has not been a moment when this  
22 individual has not referenced his family, when he has not met  
23 and cried when you speak of his daughters, when he realizes the  
24 pain and the damage that he has put that family through. He is  
25 not a drug kingpin; he was a sap for a drug kingpin. They used

1 him like they are using so many others in Honduras in an effort  
2 to help themselves. They opened the door. Did he walk through  
3 it? Did he go in and do it? You bet he did, and he knows it.  
4 He is not walking back from that responsibility, but 30 years  
5 is outrageous when there are comparative sentences that are  
6 different.

7 We have provided the Court with some examples. Some  
8 of the examples we have provided in an effort to establish some  
9 disparity or at least references so there would not be  
10 disparity: Colombian FARC guerilla, in the industry of terror  
11 and drugs, 16 years, serving member of the armed revolutionary  
12 forces of Colombia. Drug kingpins from Guatemala, in the realm  
13 of 20 to 25 years. Your Honor, he is stuck at 10; he is stuck  
14 at 10 because we couldn't agree.

15 We ask the Court to go well below those guidelines.  
16 We ask the Court to pay attention to the fact that he took this  
17 giant step knowing what was coming at him, but it was his  
18 decision, he felt it was the right thing to do, and that, as an  
19 officer of the court, I am astounded that it's not recognized  
20 by the prosecution. We saved them their time. We saved the  
21 DEA represented here, their cooperator. We saved the ability,  
22 the resources, the money of this court. This man accepted  
23 responsibility.

24 Your Honor, we would ask that no fine be imposed on  
25 Mr. Lobo. We provided the financial details of Mrs. Lobo

1 because that is what is providing for those daughters and  
2 that's what Mrs. Lobo has to deal with on a daily basis.  
3 Beyond that, \$266,000 worth of forfeiture is more than enough  
4 for this individual because it is, as we established, what he  
5 earned, what he got out of this conspiracy.

6 We ask the Court for a recommendation for a BOP  
7 designation. Because he does not have direct family in the  
8 United States, it would require Mrs. Lobo to travel to the  
9 United States, and therefore we would ask the Court to make the  
10 recommendation to the Bureau of Prisons for a facility in the  
11 southwestern region of the country -- I mean southeastern, I'm  
12 sorry, primarily the state of Florida. Coleman has been a  
13 facility that has been proven easily accessible because of the  
14 nearby Orlando airport. So we would ask the Court to consider  
15 that.

16 I think that's all I have, your Honor. I just ask the  
17 Court to consider that. And I know that Mr. Lobo has prepared  
18 some words for the Court.

19 THE COURT: Thank you.

20 Mr. Lobo, you don't have to speak, but if you would  
21 like to speak, now is your opportunity.

22 MR. RETURETA: Would you like him to stand, your  
23 Honor?

24 THE COURT: Up to him.

25 THE DEFENDANT: Good afternoon, your Honor,



1 prosecutors, and everyone who is present here. I thank you,  
2 your Honor, for allowing me to say these words.

3 I want to apologize today to the government of the  
4 United States for my mistake, to apologize to the people of  
5 Honduras, to my mother, and especially to my father who has  
6 nothing to do with this. I apologize to my three daughters,  
7 and also to my beloved wife, who have been emotionally affected  
8 for my mistake. What they have lived from day to day has not  
9 been easy at all, with society pointing them out. I should  
10 have been an example for my daughters, my siblings, brothers  
11 and sisters.

12 I repent, your Honor, for my mistake that I committed,  
13 and I have pled guilty, accepted responsibility for having  
14 approached and trusted people who are bad, dangerous, and with  
15 an evil heart. The only thing that they were looking for was  
16 to cause me harm and my family in order to obtain a benefit for  
17 themselves. I was vulnerable in spite of my father's advice.  
18 They affected me greatly. And I dragged along my parents, my  
19 wife, daughters, and all of my family, without any need to do  
20 this, since I have had everything in my life. God has blessed  
21 me, has given me many opportunities, as, for example, to be a  
22 professional man. I did not value what God has given me and  
23 neither did I measure the consequences, the harm that all of  
24 this has caused me and my family.

25 From the bottom of my heart, I want to ask that God

1 may touch your heart, that you have pity on me for my mistake.

2 I have learned a great lesson in my life. I made a mistake, as  
3 a human being that I am, and I am paying a very high price for  
4 my freedom. Freedom has no price.

5 I ask your Honor for pity on my sentence, your Honor,  
6 and I apologize for my mistake. I beg you for a minimum  
7 penalty in order to soon return home to my three daughters, who  
8 are 5, 13 and 19 years of age. They need their father. Judge  
9 me, Fabio Lobo, for the mistake I made. In these three years  
10 that I have been deprived of freedom, away from my family, I  
11 have suffered. I have reflected and I am repented of  
12 everything that has happened.

13 Thank you, your Honor. I thank you and may God touch  
14 your heart.

15 THE COURT: Thank you.

16 Is there any reason why sentence should not be  
17 imposed?

18 MR. RETURETA: No, your Honor.

19 MR. BOVE: No, your Honor.

20 THE COURT: As I have stated, the recommendation under  
21 the guidelines in this case is 360 months, or 30 years, to life  
22 imprisonment. Under the Supreme Court's decision in *United*  
23 *States v. Booker*, that recommendation is just one factor that  
24 the Court considers. The Court must also consider the factors  
25 that are set forth in a statute called 18 U.S.C., Section

1 3553(a) .

2 Mr. Lobo, these factors include the nature and  
3 circumstances of the offense, your own personal history and  
4 characteristics, the need for the sentence to reflect the  
5 seriousness of the offense, promote respect for the law,  
6 provide just punishment for the offense. Also, to afford  
7 adequate deterrence to criminal conduct, and that means not  
8 just deterring you, I don't really have any doubt that if given  
9 the opportunity now you would lead a law-abiding life, but also  
10 to deter others who might be like you and who would see what  
11 the consequences are of actions like the ones you have taken.

12 Also, an important factor is to avoid unwarranted  
13 sentence disparities among defendants who are similarly  
14 situated. And to impose a sentence that is sufficient but no  
15 greater than necessary to achieve these purposes. And I find  
16 that the sentence I am about to pronounce is sufficient, but  
17 not greater than necessary to satisfy these sentencing  
18 purposes.

19 So I have thought very carefully about the sentence in  
20 your case, and it's difficult only because the amount of time  
21 that is recommended by the guidelines is so great. I see that  
22 you are a relatively young man. You had your life before you.  
23 But I have to start with the offense. You participated in a  
24 conspiracy to import cocaine into the United States, and this  
25 was not just something that I read about in an indictment or in

1 a paragraph summary in the presentence report. This is  
2 something that I actually saw a great deal of evidence about,  
3 not only in the form of testimony, but also in the form of tape  
4 recordings and other evidence. So I feel as though in this  
5 case, unlike many others where I have to sentence someone, I  
6 actually had a much better feel for what happened and what your  
7 actual participation was.

8 The most damning fact in your background and in your  
9 participation in this is that you are not like the police  
10 officers who have made plea agreements with the government for  
11 a much less amount of time in prison. You were the son of the  
12 sitting president of Honduras, and you used your connections,  
13 your reputation in your political network to try to further  
14 corrupt connections between drug traffickers and Honduran  
15 government officials. And these included not only lowly  
16 officials, like customs people and military and law enforcement  
17 personnel, but also extremely high level officials. In short,  
18 what distinguishes your case from so many is that you  
19 facilitated strong government support for a large drug  
20 trafficking organization for multiple elements of the Honduran  
21 government, and you enriched yourself in the process.

22 Your lawyer makes a lot of the fact that you did not  
23 become a millionaire or more in this participation, but that is  
24 beside the point. The point is really that you abused who you  
25 are and the benefits and advantages that you had to further

1 this crime. Your guidelines calculation is based on the  
2 distribution of over 450 kilograms of cocaine to the United  
3 States, and by my calculation that's only about a half a ton.  
4 I say only in comparison to the amount that the government  
5 proffered at the Fatico hearing and in its papers that you were  
6 responsible for. But whether it was four tons, whether it was  
7 half a ton, the fact that is most weighty in my mind was the  
8 abuse of your position and the privilege that you enjoyed.

9 I turn now to more sympathetic factors. You're 46  
10 years old. You're married. I know you have three daughters,  
11 who are, I think, 17, 12 and 4. And your lawyer is right. The  
12 brunt of this will fall not only on you, but on them. But what  
13 is sad, in the inevitable consequence of the justice system, is  
14 that that is always the case. And that is a responsibility  
15 that defendants assume when they commit these crimes.

16 As the son of the former president of Honduras, you  
17 attended the best schools, you were well provided for, as you  
18 said, you were blessed, and perhaps didn't appreciate those  
19 blessings. As an adult, you were very accomplished. You  
20 earned a law degree; you worked as an attorney, a juvenile  
21 court judge, a notary, which is an important position that  
22 requires approval by, I think, the Honduran supreme court. And  
23 this is your first known criminal conviction. You came here as  
24 a result of that arrest.

25 As I assess all of these factors, both your personal

1 factors as well as the crime you were engaged in, it is not  
2 only important but inevitable that I impose a substantial  
3 sentence to promote respect for the law and also to deter  
4 others who may enjoy the kinds of benefits that you have and  
5 who occupy similarly important positions in their governments.

6 I have reports about your assets, that you own two  
7 vehicles and a farm that estimate to be worth about \$120,000.  
8 I also have documents about indebtedness that you have. Your  
9 wife works as a school teacher. Since your incarceration your  
10 father has helped to support your family. I don't think that  
11 you're a person who got rich engaging in these activities. So  
12 that is really not a part of my sentence.

13 One of the objectives as the sentencing guidelines is  
14 to treat similarly situated defendants the same, and in my mind  
15 that is not the police officers who your lawyer pointed out,  
16 but I have tried to figure out who might be similarly situated.  
17 So to that end, I made inquiries with the United States  
18 Sentencing Commission about defendants with a similar  
19 sentencing guideline profile to the one that you have from  
20 around the country. And what I learned was that people have  
21 been sentenced both within the guidelines and below the  
22 guidelines, and just taking those cases, and they admittedly  
23 aren't a huge number of them, the average that I saw was 24.5  
24 years. And that's actually not so far from what the probation  
25 department recommended, which was a below guideline sentence of

1 25 years.

2 The government, as you know, is recommending a  
3 guideline sentence so that is a minimum of 30 years. The  
4 probation department, as I mentioned, recommends a below  
5 guideline sentence of 25 years. And I am mindful, as I think  
6 about all of this, of imposing a sentence that is no greater  
7 than necessary to comply with the sentencing purposes. And  
8 what I am thinking of primarily now is general deterrence, what  
9 is the message that needs to be sent to people who may be  
10 similarly situated to you, and also the gravity of the offense,  
11 what you were involved in and what a just punishment is for  
12 that.

13 So weighing all of these factors, I will now state the  
14 sentence that I intend to impose, but the attorneys will have a  
15 final opportunity to make legal objections before it's final.

16 So, Mr. Lobo, will you please stand.

17 After assessing the particular facts of this case, the  
18 factors under Section 3553(a), including the sentencing  
19 guidelines, I conclude that a sentence below the guidelines is  
20 justified as follows.

21 Mr. Lobo, it is the judgment of the Court that you are  
22 remanded to the custody of the Bureau of Prisons for a period  
23 of 24 years. I will impose a fine of \$50,000 and supervised  
24 release of five years.

25 The standard conditions of supervised release will

1 apply.

2 In addition, you will be subject to the following  
3 mandatory conditions:

4 First, you must not commit another federal, state or  
5 local crime.

6 You must not illegally possess a controlled substance.

7 You must not possess a firearm or destructive device.

8 If you are in this country, you will be subject to  
9 mandatory drug testing and you will cooperate in the collection  
10 of your DNA.

11 You must also meet the following special conditions:

12 I am only going to impose one because I assume, since  
13 you were brought here voluntarily, you will be deported as soon  
14 as you're released from prison. So the special condition is  
15 that you shall obey the immigration law of the United States  
16 and comply with the directives of the immigration authorities.

17 I am required to impose a special assessment of \$100,  
18 which will be due immediately.

19 Does either counsel know of any legal reason why this  
20 sentence should not be imposed as stated?

21 MR. BOVE: No, your Honor.

22 MR. RETURETA: No, your Honor.

23 THE COURT: The sentence as stated is imposed.

24 I heard Mr. Retureta's application for a  
25 recommendation that Mr. Lobo be housed at a facility as near



Orlando as possible to facilitate your family's travels.

My deputy reminds me that you asked specifically for FCI Coleman. I wasn't familiar with it. He tells me now what it is, so I will make that specific recommendation and will see whether they follow it.

Are there any open counts that need to be dismissed?

MR. BOVE: No, your Honor.

THE COURT: You may have the right to appeal your conviction and your sentence. If you are unable to pay the cost of an appeal, you may apply for leave to appeal in forma pauperis. The notice of appeal must be filed within 14 days of the judgment of conviction.

I wanted to say just a brief word to your family. Will they understand me or shall I have the translator translate?

MR. RETURETA: Mrs. Lobo understands English. I can inquire whether she would feel more comfortable with the headsets.

THE COURT: I can just have the translator translate in open court.

Mrs. Lobo, I wanted to address you and other family and friends who may be here to support you and Mr. Lobo.

Will you just speak out loud?

THE INTERPRETER: May the interpreter inquire?

THE COURT: Just speak out loud.

1 THE INTERPRETER: Go ahead, your Honor.

2 THE COURT: What I said was, Mrs. Lobo, I wanted to  
3 address you and other family and friends who are here to  
4 support you and Mr. Lobo.

5 I am very sorry this misfortune has befallen you, and  
6 I am also sorry to be a part of it. But I hope you will  
7 understand that the drug problem in this country has been a  
8 terrible scourge for so many people and it is the obligation of  
9 many of us in this courtroom to uphold and enforce the drug  
10 laws and to try to create a deterrent effect to discourage  
11 people who would be involved in drug trafficking, and that's  
12 really what this is all about.

13 I know that's not very much consolation to you, but  
14 what I would like to say is that your husband, Mr. Lobo, will  
15 need your love and support and that of your family and friends  
16 in the coming years, and I hope that you will be able to give  
17 that to him, because he made a terrible mistake, he now has to  
18 pay for the terrible mistake, but I don't think he is a bad  
19 man. So I wish you the best of luck. I am sorry you're here  
20 under these circumstances.

21 Is there anything else we need to talk about?

22 Could I ask the government about the offense end date.  
23 Is it May 21, 2015?

24 MR. BOVE: Yes, your Honor, I believe that's the  
25 arrest date.

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1 THE COURT: Anything else?

2 MR. RETURETA: No, your Honor.

3 THE COURT: We are adjourned.

4 (Adjourned)

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